UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

Raymond L. Bourque	:	
Plaintiff,	:	
	:	
vs.	:	**C.A. No.: 05-397 T**
	:	
Albert G. Brien,	:	
Lodie Brien Agency Inc., and	:	
New River Associates, Inc.	:	
Defendants	:	

PLAINTIFF'S MOTION TO COMPEL
MORE RESPONSIVE ANSWERS TO INTERROGATORIES
PROPOUNDED TO DEFENDANT

For the reasons stated in the *Memorandum* accompanying this Motion, Plaintiff, by his attorney, moves the Court to compel each of the above named Defendants to furnish separate, more responsive answers to interrogatories in accordance with Plaintiffs' *Plaintiffs' First Set Of Interrogatories Propounded To Defendant* dated October 14, 2005. Plaintiff requests a twenty (20) day order.

Plaintiffs' counsel certifies that it has complied with the requirements of R.C.P. 37 (a)(2).

RAYMOND L. BOURQUE
By His Attorneys,

Richard W. MacAdams, #1681
Dennis R. Gannon, #2280
MacADAMS & WIECK INCORPORATED
101 Dyer Street, Suite 400
Providence, RI 02903
(401) 454-8700
(401) 454-8755 (Fax)
Dated: November 21, 2005

CERTIFICATION

I hereby certify that on the 22 day of November, 2005, a true and accurate copy of the within Motion was sent by regular mail, postage prepaid, to William J. Delaney, Esq., Tillinghast Licht LLP, 10 Weybosset Street, Providence, RI 02903

UNITED STATES DISTRICT COURT
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Plaintiff,	:	
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vs.	:	**C.A. No.: 05-397 T**
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Albert G. Brien,	:	
Lodie Brien Agency Inc., and	:	
New River Associates, Inc.	:	
Defendants	:	

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL MORE RESPONSIVE ANSWERS TO INTERROGATORIES PROPOUNDED TO DEFENDANTS

I. Travel of the Case

The above captioned matter is before the court on the Plaintiff's *Motion* to compel more responsive answer to interrogatories.

Plaintiff's *Complaint* alleges, *inter alia*, that Plaintiff and Defendant Brien agreed that Plaintiff would provide the funds to purchase certain real property, title to which would be taken in the name of Defendant New River; that the proceeds from any sale of the property would, after payment of all expenses associated with any such sale and repayment of Plaintiff the amount of the purchase funds plus interest, be divided equally between Plaintiff and Brien/New River; that Defendant Brien, without disclosing his intention to do so, and acting as an officer of Defendant New River, conveyed the property to Defendant Lodie Brien Agency, Inc., on information and belief, a corporation wholly owned by Brien, for the sum of $75,000; that immediately after the sale to Lodie Brien Agency, Inc., Brien, caused Lodie Brien Agency, Inc. to convey the property to one Lisa Baldelli-Hunt for the sum of $185,000; that Hunt granted Lodie Brien Agency, Inc. a mortgage on the property in the amount of $85,000, which Lodie Brien Agency, Inc. thereafter assigned to First Boston Associates LLC for an undisclosed amount. Based upon the foregoing factual allegations, Plaintiff's *Complaint* contains counts sounding in breach of contract, accounting and constructive trust.

II. Applicable Law

The general rule of discovery is found in Rule 26(b)(1) of the Federal Rules of Civil Procedure:

> "(b) DISCOVERY SCOPE AND LIMITS. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:
>
> > (1) In General. Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence. All discovery is subject to the limitations imposed by Rule 26(b)(2)(i), (ii), and (iii).
> >
> > [Emphasis added]

The general rule applies to both interrogatories propounded to a party pursuant to F.R.C.P. 33 and to requests for production and inspection of documents under F.R.C.P. 34.

III. Argument

Plaintiff served its *First Set of Interrogatories Propounded to Defendants* dated October 14, 2005, upon Defendants Albert G. Brien and New River Associates, Inc. (collectively, "Defendants"), "...to be answered separately and fully in writing under oath. The total number of interrogatories was fifteen. Defendants responded on or about November 15, 2005; however, instead of answering separately and fully, Defendants filed a single response to Plaintiff's Interrogatories signed by Albert G. Brien, without identifying the capacity in which he signed.

In addition, Defendants have asserted the following sweeping, "General Objection" to answering Plaintiff's interrogatories #3, 11, 12, 13, 14, and 15 in their entirety.

> "The Interrogatories, and each of them, are overly broad and thereby objectionable. In addition, a number of the Interrogatories are not relevant for the purposes of the Plaintiff's claims herein."

As to the remaining interrogatories, Defendants' responses are inadequate and incomplete in that the answers either improperly assert the General Objection, ignore parts of the interrogatories, or both.

Plaintiff's Interrogatories, Defendants' Responses, and the basis for the information requested are as follows:

INTERROGATORY #1. State the full name, residence and/or business address, employer and the title and/or position of each person who answered and/or assisted in preparing the answers to these interrogatories, and state which interrogatory each person answered and/or assisted in answering.

RESPONSE #1. The Defendant, Albeit G. Brien, 64 Hamlet Street, Woonsocket, Rhode Island.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #2. Identify each person who contributed information, or who was consulted, in answering these interrogatories.

RESPONSE #2. Defendants' counsel.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #3. Identify all documents utilized or reviewed in answering these interrogatories.

RESPONSE #3. Defendants assert the General Objection.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #4. State the full name, residence and/or business address of each person whom Defendant believes has personal knowledge of the facts and circumstances relating to the allegations in Plaintiffs' Complaint, and state in detail the facts and circumstances of which Defendant believes the person has personal knowledge.

RESPONSE #4. Defendants assert the General Objection. Notwithstanding the foregoing, the Plaintiff and Gloria Ayotte, 64 Hamlet Street, Woonsocket, Rhode Island.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #5. State the full name, residence and/or business address of each person whom Defendant believes has personal knowledge of the facts and circumstances relating to any claims or defenses which the Defendant claims to have, and state in detail the facts and circumstances of which Defendant believes the person has personal knowledge.

RESPONSE #5. Defendants assert the General Objection. Notwithstanding the foregoing, Gloria Ayotte and Donna Tancrell, 64 Hamlet Street, Woonsocket, Rhode Island

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #6. Describe in detail the facts, identify all persons having knowledge of the facts, and identify the Documents, including Financial Records and Correspondence, and Communications concerning any and all indebtedness of any of the Defendants to Plaintiff with respect to funds received for the acquisition, maintenance, or renovation of the Premises.

RESPONSE #6. Defendants assert the General Objection. Notwithstanding the foregoing, Defendant, Albert G. Brien.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #7. Describe in detail the facts, identify all persons having knowledge of the facts, and identify the Documents, including Financial Records and Correspondence, and Communications concerning any payments made by the Plaintiff for the acquisition, maintenance, or renovation of the Premises.

RESPONSE #7. Defendants assert the General Objection. Notwithstanding the foregoing, Defendant Albert G. Brien and Gloria Ayotte.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #8. Identify all officers, directors and shareholders of Defendants, and the terms of their incumbency, from the date of Defendants' formation or incorporation to the present, and identify any Corporate Records concerning the appointment, election, resignation or removal thereof.

RESPONSE #8. Defendants assert the General Objection. Notwithstanding the foregoing, Defendant Albert G. Brien.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #9. For each officer, director and shareholder identified in the answer to the previous interrogatory, describe in detail the day to day duties of each.

RESPONSE #9. Defendants assert the General Objection. Notwithstanding the foregoing, Defendant Albert G. Brien acted as President and CEO of each of the Defendant corporations.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #10. Describe in detail the facts, identify all persons having knowledge of the facts, and identify the Documents, including Financial Records and Correspondence, and Communications concerning the sale of the Premises, or any portion thereof, to Lodie Brien Agency, Inc.

RESPONSE #10. The Defendants cite the General Objection. Notwithstanding the foregoing, Defendant Albert G. Brien.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #11. Describe in detail the facts, identify all persons having knowledge of the facts, and identify the Documents concerning the reason why Defendant New River Associates, Inc. sold the Premises to Lodie Brien Agency, Inc. on or about February 2, 2005.

RESPONSE #11. The Defendants cite the General Objection.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #12. Describe in detail the facts, identify all persons having knowledge of the facts, and identify the Documents, including Financial Records and Correspondence, and Communications concerning the sale of the Premises, or any portion thereof, by Lodie Brien Agency, Inc. to Lisa Baldelli Hunt on or about February 2, 2005.

RESPONSE #12. The Defendants cite the General Objection.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #13. Describe in detail the facts, identify all persons having knowledge of the facts, and identify the Documents, including Financial Records and Correspondence, and Communications concerning the relationship between any of the Defendants and Lisa Baldelli Hunt.

RESPONSE #13. The Defendants cite the General Objection.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #14. Describe in detail the facts, identify all persons having knowledge of the facts, and identify the Documents, including Financial Records and Correspondence, and Communications concerning the relationship between any of the Defendants and First Boston Associates LLC and/or the Grossman family.

RESPONSE #14. The Defendants cite the General Objection.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

INTERROGATORY #15. Describe in detail the facts, identify all persons having knowledge of the facts, and identify the Documents, including Financial Records and Correspondence, and Communications concerning any indebtedness of any of the Defendants to First Boston LLC.

RESPONSE #15. The Defendants cite the General Objection.

INFORMATION REQUESTED: The information requested is relevant to the claims of the Plaintiff and defenses of the Defendants. Plaintiff requests that the Defendants be ordered to answer the entire interrogatory, separately and fully.

IV. Conclusion

All of the information requested in Plaintiffs' Interrogatories is relevant to the claims or defenses of the parties and fully discoverable pursuant to F.R.C.P 26(b). Plaintiff requests that the Defendants be ordered to furnish more responsive answers to Interrogatories 1-15, separately and fully within twenty (20) days. Plaintiff is clearly entitled to the information sought in the level of detail and completeness sought.

RAYMOND L. BOURQUE
By His Attorneys,

Richard W. MacAdams, #1681
Dennis R. Gannon, #2280
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Dated: November 21, 2005

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